

BEFORE THE
NORTH CAROLINA UTILITIES COMMISSION
SOUTH CAROLINA PUBLIC SERVICE COMMISSION

IN THE MATTER OF: DUKE POWER, A DIVISION OF DUKE ENERGY
CORPORATION

AFFIDAVIT OF JOHN J. GILLEN, CPA

John J. Gillen deposes and says:

- 1 am a resident of the Commonwealth of Pennsylvania, over the age of eighteen (18), and am competent to testify about the matters contained in this affidavit based on my own personal knowledge and my expertise in utility regulatory accounting.
2. I have been retained by outside counsel for Duke Power, a division of Duke Energy Corporation, to provide an independent expert assessment of Duke Power's accounting treatment of distributions it received in 1998, 1999, and 2000 from the nuclear mutual insurance entities, Nuclear Mutual Limited (NML) and Nuclear Electric Insurance Limited (NEIL)
3. I received a B.S. degree in Business Administration from Widener University in 1977.
4. I continue my professional education and development by completing all required continuing professional education requirements to maintain my Certified Public Accountant license in the various states in which I have current audit engagements.
5. have worked in public accounting for the past 19 years. I am a partner in the accounting firm PricewaterhouseCoopers LLP (PwC), resident in the firm's

Philadelphia office, and I am the leader of the Utility Audit and Business Advisory Services group for PwC in North America.

6. received my initial Certified Public Accountant license in 1980 in the Commonwealth of Pennsylvania. I currently hold a CPA license in Pennsylvania, New York, Missouri, Wisconsin, and New Jersey. I am a member of the American Institute of Certified Public Accountants.
7. I am or have been the engagement partner on several of PwC's major utility clients, including Exelon Corporation, Entergy Corporation, GPU, Inc. Puget Sound Energy, Madison Gas & Electric, and Kansas City Power and Light. Many of these utility clients are insured members of NML/NEIL.
8. I have been the partner on several engagements involving special audit reports on various accounting and ratemaking issues, quarterly and annual reports to the Securities and Exchange Commission, stock registration, debt financings, and annual reports to the Federal Energy Regulatory Commission.
9. I have provided consulting services to numerous electric and gas utility companies throughout the United States.
10. I am the past Chairman of the Public Utility Committee of the American Institute of Certified Public Accountants.
11. I am a contributing author to *Montgomery's Auditing*, an authoritative textbook on auditing.
12. I worked for three years (1980-1983) as a field staff supervisor for the Chief Accountant of the Federal Energy Regulatory Commission.

13. have provided expert testimony before several state regulatory agencies regarding a variety of accounting and ratemaking matters.
4. I have spoken before the Federal Energy Regulatory Commission, the Securities and Exchange Commission, and the Financial Accounting Standards Board Emerging Issues Task Force on accounting related matters.
15. Based on my personal knowledge and my review of the affidavits of C. Jeffery Triplette dated June 24, 2002 and William R. Stimart dated June 24, 2002, and my review of Duke's August 21, 2001 Report to the Commissions, understand the following:
 - a. Duke Power is a founding member of NML and NEIL and played an integral part in the establishment of NML and NEIL and in both entity's investment and operational strategy
 - b. NML was merged into NEIL effective December 31, 1997.
 - c. Prior to 1998, Duke Power recorded the NML distribution to a reserve account to protect against the potential for large losses associated with its insured nuclear facilities and its NML membership. The reserve account treatment for NML distributions was established in 1973 from the inception of Duke Power's first NML distribution.
 - d. Prior to 1998, Duke Power recorded the NEIL distributions as a reduction to insurance expense.
 - e. By the end of 1997, Duke Power determined that its nuclear reserve account had reached a level adequate to cover Duke Power's nuclear liability exposure and decided to cap the reserve.

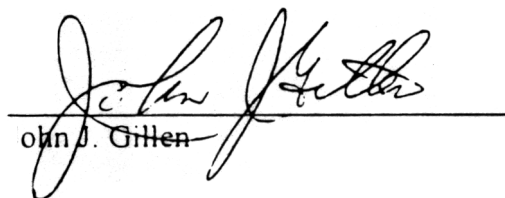
- f. Because of the decision to cap the reserve, subsequent distributions received in 1998 were not applied to the reserve. The amounts were initially reflected as a credit to insurance expense.
 - g. Duke Power accountants, after observing in the Fall of 1998 a credit balance in the insurance expense account (which had resulted from the initial accounting for the nuclear distributions), reviewed its accounting treatment of those distributions. Prior to 1998, the Duke Power accounting for nuclear mutual insurance distributions had not caused the insurance expense account to reflect a credit balance.
 - h. Duke Power accountants, exercising their professional judgment, concluded that an appropriate accounting treatment for nuclear distributions in 1998 would be to account for the distributions as below-the-line miscellaneous non-operating income (Account 421
16. received and considered information regarding Duke Power's historical participation in the NML/NEIL nuclear mutual insurance fund, the annual reports issued by NML/NEIL for the periods 1996 through 2001, the previously referenced affidavits of C. Jeffery Triplette dated June 24, 2002 and William R. Stimart dated June 24, 2002, and Duke Power's NEIL distribution accounting for the year's ended 1998, 1999, and 2000, and find its accounting to be justified and supportable under applicable regulatory and other accounting guidelines. as follows:
- a. Duke Power's management, in 1973, took the business risk to participate in the establishment of a mutual insurance alternative to the private commercial nuclear insurance market.

- b. Duke Power has, from the inception of NML and NEIL, remained active in the management and governance of the mutual insurers as the second largest contributing insured member. As an active mutual member, Duke Power management representatives have been an integral part of the establishment of NML and NEIL overall business practices, including but not limited to participation in management through board of director membership, finance committee membership, safety committee membership, and audit committee membership.
- c. The increased NEIL distributions were primarily comprised of large investment returns and investment growth earned by NML and NEIL.
- d. Duke Power and its investors shared the risk of potential loss and, alternatively, stood to benefit from Duke Power's initial business decision to establish the mutual insurance alternative and Duke Power's on-going business decision to continue to participate in the nuclear mutual insurance company.

Duke Power's accounting for the 1998, 1999, and 2000 NEIL distributions as items of miscellaneous non-operating income in FERC Account 421, is an acceptable accounting treatment because the NEIL distributions are comprised of funds derived from positive investment gains.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed this 24th day of June, 2002


John J. Gillen